

EXHIBIT A

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CYCLE-CRAFT CO., INC. d/b/a
BOSTON HARLEY-DAVIDSON/BUELL,

Plaintiff,

vs.

Case No. 04-11402-NMG

HARLEY-DAVIDSON MOTOR CO., INC.
AND BUELL DISTRIBUTION CO., LLC.,

Defendant.

Video Deposition of JON FLICKINGER

Friday, May 27th, 2005

9:32 a.m.

at

Gramann Reporting, LTD
710 N. Plankinton Ave.
Milwaukee, WI

Reported by Rose M. Coulthart, RPR

24 Q Do you recognize Exhibit 26 as a letter that a lawyer
5 for Cycle-Craft, Gregory Holmes, sent -- sent to

1 Mr. Berkowitz in response to your two letters
2 April 20th of 2004?

3 A That's -- yes. That's what this letter looks --
4 looks like to me.

5 Q Do you recall seeing a copy of it in May of 2004?

6 A I can't recall for certain. I think -- I think I
7 probably did, but I just don't recall for certain.

8 Q Do you see that this letter provides various
9 explanations regarding the alleged violations of the
10 nonretail sales policy?

11 A Yeah. I see that there's, you know, for most of
12 these situations it looks like there -- they have
3 reference to it in this letter.

14 Q As you look through the letter and see some of those
15 explanations, does that refresh your memory as to
16 whether you've ever seen this letter before?

17 A No. It does not help refresh my memory.

18 Q Do you recall having any conversations with anyone at
19 the motor company apart from counsel regarding the
20 explanations that are provided in Exhibit 26?

21 A Not specific to these, no. Not specific to this
22 letter. I don't recall any conversations, no.

23 Q Do you recall having any conversations with counsel
24 regarding the substance of the letter that is
5 Exhibit 26?

1 MR. BERKOWITZ: You can answer that yes or
2 no.

3 THE WITNESS: No.

4 BY MR. REHNQUIST:

5 Q Do you recall did you have any conversation with
6 Mr. Verduyn about the substance of Exhibit 26?

7 MR. BERKOWITZ: Outside the presence of
8 counsel, you can answer.

9 THE WITNESS: I don't recall any
10 conversations.

11 BY MR. REHNQUIST:

12 Q Did you have any conversations with Mr. Verduyn
13 inside or outside the presence of counsel regarding
14 the substance of Exhibit 26? Just answer yes or no.

15 A No.

16 Q Did you have any conversations with Mr. Ostrom inside
17 or outside the presence of counsel regarding the
18 substance of Exhibit 26?

19 A I don't recall.

20 Q Did you have any conversation with Mr. Malicki inside
21 or outside the presence of counsel regarding the
22 substance of Exhibit 26?

23 A I don't recall.

24 Q Take a look at page 2 from Exhibit 26?

5 A Page 2 did you say?

1 Q Yeah. Page 2 under the heading sales made to
2 residents of New Hampshire. And can you just read
3 that paragraph to yourself, please?

4 A (Witness complies.) Okay.

5 Q When was the first time you heard the explanation for
6 the so-called Lee Custom Cycle sales that is set
7 forth in this paragraph on page 2 of Exhibit 26?

8 A I don't know.

9 MR. BERKOWITZ: Objection. You may answer.

10 THE WITNESS: I don't recall.

11 BY MR. REHNQUIST:

12 Q Have you heard that explanation before today?

13 A This -- this explanation?

14 Q Yeah.

15 A I don't recall.

16 Q You don't recall whether you've ever heard that
17 explanation before?

18 A No. I don't recall.

19 Q Do you think if you had heard that explanation
20 sometime before today, you would remember it?

21 MR. BERKOWITZ: Objection.

22 THE WITNESS: I doubt it. I just don't --
23 I don't know. I don't know if I would have or not.

24 BY MR. REHNQUIST:

5 Q Do you recall ever learning from anyone at the motor